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IN THE

Supreme Court of the United States

OCTOBER TERM, 1951

No. 198

GORDON LOUK, JOSEPH J. BLONDELL,
JANE L. LOUK and ELIZABETH B. BLONDELL,
Petitioners,

vs.

HARRY D. FRIEDMAN, EDWARD N. LIGHTBOWN,
and NICHOLAS OREM, JR.,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES AND BRIEF IN SUPPORT THEREOF WITH APPENDIX

GORDON LOUK,
JANE L. LOUK,
JOSEPH J. BLONDELL,
ELIZABETH B. BLONDELL,
In Proper Person.

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IN THE

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vs.

HARRY D. FRIEDMAN, EDWARD N. LIGHTBOWN,
and NICHOLAS OREM, JR.,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES

Gordon Louk, Jane L. Louk, Joseph J. Blondell, and Elizabeth B. Blondell pray that a writ of certiorari issue to review the judgments of the Federal District Court for the District of Maryland entered at Baltimore, Maryland, on June 28, 1950, on Case No. 5008 and entered on October 20, 1950, on Case No. 5154, and to review the judgment of the United States Court of Appeals for the Fourth Circuit, entered April 4, 1951, at Richmond, Virginia, on Case No. 6216.

GORDON LOUK,
JANE L. LOUK,
JOSEPH J. BLONDELL,
ELIZABETH B. BLONDELL,
In Proper Person.

BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

STATEMENT OF THE CASE IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND, EQUITY NO. 15136, AND IN THE COURT OF APPEALS FOR MARYLAND, CASE NO. 118 WHICH FORMS THE BASIS OF PETITIONERS' COMPLAINTS IN THE FEDERAL DISTRICT COURT FOR THE DISTRICT OF MARYLAND IN CASES 5008 AND 5154.

Petitioners show by the aforementioned complaints, No. 5008 (R. 31-36) and No. 5154 (R. 1-8), that the State Courts of Maryland divested them of right to ownership of property upon the statements and testimony by the respondent attorney, Nicholas Orem, Jr., and testimony of respondent Edward N. Lightbown for the benefit of respondent Harry D. Friedman.

Subsequent to the State Court's hearings and decisions thereon, petitioners have discovered documentary and testimonial evidence that the testimony and statements of Nicholas Orem, Jr. in the State Courts were perjured and that the testimony of Edward N. Lightbown was perjured and that the perjury of Edward N. Lightbown was suborned by Nicholas Orem, Jr. The perjured testimony was given in the State Courts as a result of the conspiracy to have Nicholas Orem, Jr. appointed a trustee with power to divest petitioners of the right of ownership of land in Prince George's County, Maryland. This was done allegedly in the name of I. S. Turover but actually for Harry D. Friedman.

Petitioners brought actions in the Federal Court for the District of Maryland to set aside the trusteeship fraudulently secured by Nicholas Orem, Jr. under color of state law.

QUESTIONS PRESENTED

1. Does the wrongful divesting of the Petitioners' right of ownership in property by the State Courts upon the conspiracy, perjured testimony, and false allegations, contained in the complaint, and other false allegations contained in the pleadings and arguments, to the State Courts, upon which the State Courts relied to render a decision against the Petitioners, constitute violations of our Constitutional rights, that should be reviewed by the Supreme Court of the United States?

And

Should the Supreme Court of the United States set aside as a nullity the action of the State Courts in divesting the Petitioners' Rights to possess property on such conspiracy and perjury and fraud?

2. Are Petitioners entitled to equal protection under the Law?

3. Have the Petitioners had equal protection under the Law?

4. Are the Petitioners entitled to due process of Law?

5. Have the Petitioners been denied due process of Law?

OPINIONS BELOW

The order of the Federal District Court for the District of Maryland dated June 28, 1950, Case 5008 (R. 57), and the order of the Federal District Court for the District of Maryland dated October 20, 1950 on Case 5154 (R. 25), are

contained in the certified record from the United States Court of Appeals for the Fourth Circuit.

The order of the United States Court of Appeals for the Fourth Circuit handed down on April 4, 1951 on Case 6216 (R. 73) is contained in the record of that Court.

JURISDICTION

The judgment of the United States Court of Appeals for the Fourth Circuit was entered April 4, 1951. The jurisdiction of this Court is invoked under Title 28, Sections 1331, 1332 and 1343, June 25, 1948, C. 646, 62 Stat. 930, 932, and the Constitution of the United States, with special reference to:

The Preamble: "* * *, To establish Justice, * * *" and to

Article 1, Section 10: "No State shall pass * * * or law impairing the obligation of Contracts * * *."

Article 3, Section 1: "The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish * * *."

Article 6, Par. 2: "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; * * *, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

Article 4 of the Amendments: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, * * *."

Article 5 of the Amendments: "* * * nor be deprived of life, liberty, or property, without due process of law; * * *."

Article 9 of the Amendments: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Article 10 of the Amendments: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Article 14 of the Amendments: Section 1: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or *property*, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

In the proceedings on Case 6216 before the United States Court of Appeals for the Fourth Circuit, — April 4th, 1951. Judge Parker ruled: "We can't have Federal Court Jurisdiction of all conspiracy cases brought where the object of the conspiracy was to obtain property. Nowhere do I know of a case that contains that" (Infra, p. 24).

U. S. Code Title 28, Sections 1331, 1332 and 1343 (June 25, 1948, C. 646, 62 Stat. 930, 932).

STATEMENT OF THE CASE IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

The Petitioners purchased a tract of land in Prince George's County, Maryland, and received a Deed for it from the owners on the 13th day of June 1946, after a thorough title search.

Thereafter on July 24, 1946, T. Howard Duckett, Nicholas Orem, Jr., and Duckett, Gill and Anderson, Attorneys, with offices in the Tower Building, Washington, D. C., filed an action against the Petitioners, Gordon Louk and Joseph J. Blondell in the Circuit Court for Prince George's County, Maryland, Equity No. 15136. That complaint was allegedly filed for Isadore Turover but was not signed by Isadore Turover. It was signed by Nicholas Orem, Jr., but was not sworn to by Nicholas Orem, Jr., or anyone else. It was entered solely on the bare statement made by Nicholas Orem, Jr. Isadore Turover was never called to testify, never did testify and has never appeared in any of the proceedings in the State Courts (nor in the action instituted by Petitioners in the Federal Courts). That complaint in the Circuit Court for Prince George's County, Maryland, Equity No. 15136, alleges among other things *fraud* in petitioners' procurement of said deed asking, "(2) That the aforementioned option agreement to Plaintiff may be specifically enforced and the Sellers decreed to convey to Plaintiff the aforementioned said property in accordance therewith upon payment of the purchase price due and owing from Plaintiff under the terms of said option agreement."

A motion was made by Nicholas Orem, Jr., in the Circuit Court for Prince George's County (and was acceded to by the therein Defendants' attorney) to take pretrial depositions. These depositions were so taken and further testimony was again taken in open Court at trial. Petitioners emphatically assert that the Respondents had the right to take our depositions and to take us into Court and try to prove their case. Likewise, we assert our similar right to take the depositions and testimony of respondents in the same manner and for the purpose of verifying Petitioners' allegations of conspiracy to commit and suborn perjury

in the State Courts thru which Petitioners have been divested of the right to ownership of property. The Court found, after Eighteen (18) months' delay, that we had notice of the alleged option sufficient to hold that the deed to our land should be impressed with a trust and that Nicholas Orem, Jr., should be appointed Trustee with power to divest the Petitioners of right of ownership and to set up the right of ownership in a name of Isadore S. Turover, which name was spelled "I. S. TURNOVER", in the alleged option (R. 8-10). (During this 18 months' interim between the proceedings in Court and the rendering of the option we were approached on numerous occasions to convey the property for a small consideration above the purchase price and costs. At one time, our attorney, John F. Lillard, Sr., said "he could get us all our money back plus $2,500.00.").

The Petitioners elected not to comply with the Circuit Court decree but appealed to the Court of Appeals for Maryland for reversal of the order. The Court of Appeals confirmed the opinion and order of the Circuit Court (R. 45, 46).

The Petitioners thereafter, by investigation and by the good fortune of gratutious evidence given us, have learned that I. S. Turnover or Isadore S. Turover did none of the things that Nicholas Orem, Jr., alleged that he had done. We found that the now known false alleged option did not exist on April 4, 1946, but was subsequently intentionally fabricated and presented to the Circuit Court for Prince George's County as being genuine. In testimony tending to mislead the State Courts as to the procedure, time, manner, and means of securing this false document, one Edward N. Lightbown, the Respondents' other witness, committed perjury. In testifying to corroborative details in its procurement, he further committed perjury. This perjury was well

known to Nicholas Orem, Jr., the Respondents' attorney, and was committed in answer to leading questions, by Nicholas Orem, Jr.

None of the allegations of perjury and fraud charged in our complaint in Civil Action No. 5154 (R. 1-8), filed in the United States District Court for the District of Maryland, on September 6, 1950, were denied, and therefore are deemed conceded, and admitted by the Respondents. Their Motion to Dismiss, filed September 26, 1950 (R. 11), is quoted on page 11 of Appellants' brief and appendix in the United States Court of Appeals, Case No. 6216, and shows no denial of our allegations.

Petitioners "Opposition to Defendants' Motion to Dismiss" is quoted on page 12 of our brief in Case 6216 — U. S. Court of Appeals — heard on April 4, 1951 (R. 12).

The Case No. 5154 came for hearing before Judge William C. Coleman in the United States District Court for Maryland on October 20, 1950, at Baltimore, Maryland. The proceedings were reported and the transcript thereof are quoted on pages 13 to 25 of Appellants' brief and appendix in Case No. 6216 (R. 13-25).

Reading that transcript will disclose that on (R. 14), Mr. Orem began his argument by referring to "an identical case before you last year in this Court." (Presumably referring to Case No. 5008, filed June 2, 1950, in that Court.) Judge Coleman then took over the pleading and proceeded to assign grounds for the hearing other than those set forth in our complaint. In addition, he interpolated for the Defendant the statement that in the "identical case before the Court last June, Defendants then moved to dismiss it on the grounds of Failure to Comply with Rule 55 of the

Court relative to a resident agent upon whom service could be had" (R. 14).

Examination of all the records in Case No. 5008 shows that the Defendants did not move to dismiss that action for "failure to comply with Rule 55 of the Court, relative to a resident agent upon whom service could be had." That reason was interpolated by Judge Coleman for the Defendant, as will appear from the record in Case 5008 (R. 14). In the order of June 28, 1950, the Court dismissed Case No. 5008 for the lack of jurisdiction for Mr. Bartsch's failure to comply with Rule 55, and then dismissed it for lack of jurisdiction pursuant to sections 1331, 1332, or 1343 or title U. S. Code or otherwise."

Having thus ignored Plaintiffs' complaint and the prayer thereto and Defendants' Motion to dismiss Complaint and for Summary Judgment, the Court proceeded to plead for the Defendant (P. 14-15). However (R. 16), Mr. Orem pleaded "previous adjudication of this whole thing in No. 5008." In the last two paragraphs on Page 16 of Appellants' brief in Case No. 6216, the transcript shows that the District Court ruled that (R. 16) "It is shown clearly that, on the face of this complaint, that it is res adjudicata by decree of the Circuit Court, affirmed by the Court of Appeals."

ERRORS

Petitioners submit that the U. S. District Court erred in dismissing Case No. 5154 on October 20, 1950 (R. 25) on the ground of lack of jurisdiction, because the questions to be settled are clearly constitutional and jurisdiction is conferred by the Constitution of the United States and the laws implementing it, of which sections 1331, 1332, and 1343 are a part.

Petitioners submit that the U. S. District Court erred in dismissing our appeal for lack of jurisdiction and then dismissing it on the grounds of res adjudicata (R. 26). However, the doctrine of res adjudicata goes to the heart of this question. Judge Coleman introduced into the case the question of res adjudicata and Mr. Orem then adopted and, for the first time, pleaded it.

page 17:

"(Mr. Orem) I would like to have your Honor dispose of this case on the grounds of res adjudicata. I think that would prevent it coming back. I think you should do that by dismissing the complaint. They should have had two attempts in this Court now; so I submit, your Honor, that you should rule on the ground of res adjudicata."

Mr. Bartsch thereupon (p. 17) attempted to plead in answer to the ruling of res adjudicata but was stopped by the Court and not permitted to make a full answer, but he did get enough said to indicate that Petitioners opposed dismissal on that ground. At this point, Petitioners state that nowhere in the record — and we challenge the District Court or the Respondents herein to show where, in the record of this case, it shows it is plainly res adjudicata and that the question of fraud, perjury and or subornation of perjury was raised or decided in the State Court (R. 25, 26).

"(The Court) If the State Court had fraud perpetrated upon it, it is perfectly able to take care of itself. I understand that point has been presented to the State Court and has been turned down and re-presented" (R. 24).

The Court, as appears in the transcript of the proceedings on page 15, stated:

"(The Court) I think the Court ought to add this word for the benefit of yourself and *also by way of supporting the Defendant in its position* * * *" (R. 22).

On page 10, quote 3rd paragraph,

"The whole basis of the complaint at the first hearing was an attempt to get this Court to upset the final and binding action of the highest Court in the State of Maryland. That cannot be done. It will not be done under any circumstances, certainly, as exist in this case" (R. 19).

Petitioners submit the United States District Court for the District of Maryland cannot deny to citizens any rights and immunities guaranteed by the Constitution of the United States and the laws thereunder, in order to avoid upsetting the action of the highest Court in the State of Maryland. The right to access and the assistance of the Federal Courts to secure constitutional rights and immunities should not be impeded, hindered, obstructed, or defeated for any reason.

The Court then erred by proceeding to accuse Petitioners of abusing what it termed the statutory privilege of coming into Court to harass other people. The District Court erred in assigning its own grounds for dismissal; erred in pleading the case for the defendant; and then erred in dismissing the case for lack of jurisdiction and for the further grounds of res adjudicata and for the further reason that we do not have a right to come into Court because we do not understand the processes of the Law, and that we did not employ Counsel, and that this is an abuse of the statutory privilege, and that we were not able to represent ourselves intelligently, and therefore should not attempt to try our own case.

The Case No. 5154 was erroneously dismissed by the District Court upon the untimely and frivolous grounds assigned by the Court instead of hearing the case on its merits on the constitutional grounds alleged in our complaint or upon the grounds assigned for hearing and dismissal by the therein Defendants. The Court's openly hostile manner of conducting the hearing and the resulting decision deprived your Petitioners of due process of law guaranteed to any Citizen of the United States. The Court's secret and unwarranted and clandestine conferences with the Defendant Attorney (as will be apparent from the reading of the record of the case) and his acceptance, as gospel, of the mere statements made to him by the Defendant Attorney in exparte hearing and used against us in the conduct and resulting decision in the case deprived your Petitioners of the constitutional guarantee of equal protection of the laws.

STATEMENT OF THE CASE IN THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

The case was then appealed to the United States Court of Appeals for the Fourth Circuit and was assigned No. 6216 (R. 58).

On March 14, 1951, the "Motion of Appeallants was heard and argued by counsel as well in support of as against the same" (R. 72). As a result, the Court ordered the stipulated corrections to be made and ordered: "The Clerk of the United States District Court for the District of Maryland, at Baltimore, is hereby directed to certify and transmit to this Court the entire remaining portion of Civil Action, File No. 5008, not previously transmitted to this Court" (R. 72).

The case then came on for hearing in the United States Court of Appeals for the Fourth Circuit at Richmond, Virginia, on April 4, 1951, and was argued by Gordon Louk

and Henry G. Bartsch in Proper Person, and by Nicholas Orem, Jr., for Appellees. The untimely setting of the case for hearing on April 4, 1951, precluded your Petitioners of the right under the Court's rule to file a formal reply brief. Therefore, we requested and were granted permission to have the proceedings reported and the record of our oral argument used in lieu of a Reply brief. The reported record is therefore printed as an appendix hereto.

Your Petitioner, Gordon Louk, called attention to many false and misleading statements certified to that Court by the therein Appellee, and Defendant Attorney Nicholas Orem, Jr. in his brief, for the apparent purpose of deceiving that Court (Infra, pp. 30-34).

From the reported record of that oral hearing we quote: (Infra, p. 21):

> "(Judge Parker) Let me ask you, do you not allege that one of the Plaintiffs is a resident of the District of Columbia?
>
> "(Mr. Louk) Yes, sir.
>
> "(Judge Parker) Do you not also allege that one of the Defendants is a resident of the District of Columbia?
>
> "(Mr. Louk) Yes, sir.
>
> "(Judge Parker) Do you not know that that shows that the Federal Courts have no jurisdiction in this case?
>
> "(Mr. Louk) No, sir, I do not. Not in this case.
>
> "(Judge Dobie) This case or any other case. * * *"

Mr. Bartsch then took over and the following appears (Infra, p. 22):

> "(Judge Dobie) If there is no jurisdiction, there is no use talking about anything else. * * *
>
> "(Judge Dobie) What has the Federal Civil rights act got to do with an act of conspiracy?

"(Mr. Bartsch) It relates to rights in property guaranteed by the Constitution in Article 14, your Honor * * *

"(Judge Dobie) Of course, if you claim jurisdiction of the Court on the ground of a Federal question which involves a deprivation of Federal rights, of course, diversity of citizenship is out of the window. Two people could live next door to each other, yet come under it. * * *

"(Judge Parker) We can't have Federal Court jurisdiction of all conspiracy cases brought where the object of the conspiracy was to obtain property. Nowhere do I know of a case that contains that" (Infra, p. 24).

ERRORS

This statement goes to the heart of our question, and as Judge Parker states he does not know of a case like it, we think and allege that this is a constitutional question and we seek to have it reviewed and decided by the Supreme Court of the United States, because the Court of Appeals erred in not remanding the case to the District Court for hearing in accordance with the Due Process of Law Guarantee or going into the case in full and deciding it on that issue.

Instead, the United States Court of Appeals for the Fourth Circuit, discerned the substantive Federal constitutional and statutory question presented and then avoided it by ruling

"We can't have Federal Court jurisdiction of all conspiracy cases brought where the object of the conspiracy was to obtain property. Nowhere do I know of a case that contains that" (Infra, p. 24).

The Court then ruled

"That the Court below was without jurisdiction under the Diversity of Citizenship Act and the Civil Rights Act" (R. 74).

The Constitution and the Civil Rights Statutes do not refer only to deprivation of rights attaching to the person but equally to the deprivation of property rights.

No cognizance was taken of Petitioners' complaint contained in paragraph 11 thereof in Case No. 5154 in the Federal District Court for the District of Maryland, alleging "* * * To the deprivation of the rights, privileges and immunities of the several plaintiffs herein, contrary to the Constitution and laws of the United States."

The United States Circuit Court for the Fourth Circuit then "modified the order of the Lower Court to show a dismissal of the cause for lack of jurisdiction and that, as so modified, it be affirmed, with costs" (R. 74).

The question is clear and our allegations are clear. The respondents do not deny our allegations. They have apparently relied upon the cases cited in their brief to the United States Court of Appeals, pages 4, 5, 6, 7, 8, 9, and 10, Sections 1, 2, 3 and 4. These cases are not in any way applicable to this case and even if they were applicable, they would be a violation of our constitutional rights, as being repugnant to Article VI, paragraph 2, of the Constitution, and Article 14 of the Amendments would not mean what it says, and Articles 9 and 10 of the Amendments would mean nothing.

The Court of Appeals erred in disregarding all other arguments, in brief and oral, and dismissing our appeal for lack of diversity of citizenship, thus further depriving us of due process of law and equal protection of the laws, where through we seek to set aside as a nullity the fraudulent trusteeship through which we have been divested of our right of ownership of land.

CONCLUSION

The question involved here affects all citizens who own or may ever own property in any of the United States, and will determine whether property can be taken from them by an unlawful conspiracy and perjury, under color of State Law, with immunity.

It is respectfully submitted that the Supreme Court of the United States should grant this petition and that the judgment below should be reversed and that your Petitioners be allowed due process of law and equal protection; the taking of depositions; free and unhindered aid of the Courts; and to have this case decided on its merits; or in the alternative this Court should set aside the unconscionable trusteeship admittedly obtained by conspiracy to commit and suborn perjury, through which our rights to ownership of property have been divested.

Petitioners pray for such further relief as is just and proper.

GORDON LOUK,
JANE L. LOUK,
JOSEPH J. BLONDELL,
ELIZABETH B. BLONDELL,
In Proper Person.

Sworn and subscribed to before me a Notary Public for the State of Maryland, this the 13th day of July, 1951.

WM. R. TRAMMELL, SR.,
Notary Public.
My Commission expires
May 4, 1953.

(Seal)

APPENDIX

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 6216

Henry G. Bartsch,
Gordon Louk,
Joseph J. Blondell,
Jane Lenore Louk, and
Elizabeth B. Blondell,

Appellants,

v.

Harry D. Friedman,
Edward N. Lightbown, and
Nicholas Orem, Jr.,

Appellees.

Richmond, Virginia
April 4, 1951

The above-entitled cause came on for hearing Wednesday, April 4, 1951, in the United States Court of Appeals for the Fourth Circuit, in Richmond, Virginia, before:

Hon. John J. Parker, Chief Judge;

Hon. Morris A. Soper, Circuit Judge;

Hon. Armistead M. Dobie, Circuit Judge.

PROCEEDINGS

Pursuant to the request of Mr. Louk for leave to have a commercial reporter report the hearing, the following argument was presented to the Court:

(Judge Parker) What is your other request?

(Mr. Louk) We have another request. When we were here on hearings of a Motion, on March 14, this Court ordered the entire record of Case 5008 to be brought up, and that was done. The appellees had designated a part of that record of 5008 to which, you will recall, we objected. We objected to a consideration of part of it — to strike part of it, or bring it all up. We thought that the appellee, therefore, was going to print that record and we have not had time to print it, but we have had six copies typewritten of this record, which we request that the Court accept.

(Judge Parker) That is a copy of the record of the Court below?

(Mr. Louk) Yes, sir.

(Judge Parker) All right. Is it an accurate copy of what was in it?

(Mr. Louk) Yes, sir.

(Judge Parker) You can file that if you want to.

(Mr. Louk) And we have prepared, I think it is, seven copies.

(Judge Parker) All right. Give them to the Clerk. If it is an accurate record, it won't make any difference. If it is not an accurate record, we will strike it.

(Mr. Orem) I have not seen it.

(Mr. Louk) We represent they are the accurate record. If we had had it printed, it would be the same thing.

(Judge Parker) All right. We will hear your arguments on it.

(Mr. Louk) Now, as indicated in our brief, this is an appeal from an Order of the United States District Court for the District of Maryland, dated October 20, 1950, dismissing

with prejudice our Complaint filed in that case and we think that that is a fair statement of the case.

(Judge Parker) Let me ask you. Do you not allege that one of the Plaintiffs is a resident of the District of Columbia?

(Mr. Louk) Yes, sir.

(Judge Parker) Do you not also allege that one of the Defendants is a resident of the District of Columbia?

(Mr. Louk) Yes, sir.

(Judge Parker) Do you not know that that shows that the Federal Courts have no jurisdiction in this case?

(Mr. Louk) No, sir. I do not. Not in this case.

(Judge Dobie) This case or any other case. It has been decided fifty times by the United States Supreme Court and I have written five books on Federal Procedure myself and have taught it for fifteen years. If that is not the law, every book I have ever seen is wrong. Unless there is a party action, it can be disregarded. With the presence of a plaintiff on this side of the line in the District of Columbia, and the presence of a defendant on this side of the line in the District of Columbia, it leaves the jurisdiction.

If that is the case, the only thing we can do is have the case dismissed for lack of jurisdiction.

(Judge Parker) Certainly. As you know, it has been decided forty thousand times. That question is one of jurisdiction, also, before the Federal Courts, even though it was not mentioned by the parties.

(Mr. Louk) Your Honor, in the preparation of this case, I had prepared certain things which I intended to present to the Court for a few minutes, and the part of this case relating to that — diversity of citizenship and the questions presented by it in the case — are by arrangement with Mr. Bartsch. He intended to present that, and I have not.

(Judge Parker) Suppose you let Mr. Bartsch talk about that.

(Judge Dobie) If there is no jurisdiction, there is no use talking about anything else.

(Mr. Bartsch) May it please the Court, my name is Henry Bartsch. I am one of the Plaintiffs. I am the District-of-Columbia-domiciled plaintiff. Inasmuch as the question particularly affects me, I would like to present it, because, as has been suggested by Judge Dobie, there may be mutuality in citizenship between the parties plaintiff and the parties defendant, such as to bar the action. I would like to refer to the fact that the Complaint was brought under the Civil Rights Act for deprivation of Civil Rights, and specifically referred to Section 1343 of the U. S. Code as amended in June of 1948.

(Judge Parker) What Civil Right Act? What civil right do you claim?

(Mr. Bartsch) Title 8, Section 47.

(Judge Parker) I am not talking about that. I know what that is. What civil right of yours do you claim to be deprived of?

(Mr. Bartsch) There was a conspiracy, your Honor, on the part of the three defendants to deprive us of our property interests in this particular piece of land. They are hindering —

(Judge Parker) That does not involve the Civil Rights Act.

(Judge Dobie) What has the Federal Civil Rights Act got to do with an act of conspiracy?

(Mr. Bartsch) It relates to rights in property guaranteed by the Constitution in Article 14, your Honor. I admit this is somewhat new. The question has not been too well recognized. I believe that the Civil Rights Acts have been very much confined, but inasmuch as the question of perjury has come up, and subordination of perjury, I believe

this is a very important factor in the case. Now, if I may, I would like to read —

(Judge Dobie) Of course, right there, if you claim jurisdiction of the Court on the ground of a Federal question which involves deprivation of Federal rights, of course, diversity of citizenship is out of the window. Two people could live next door to each other, yet come under it.

(Mr. Bartsch) That is right. That is right. You can have jurisdiction on either ground. I might say on this question of diversity of citizenship, I also believe this to be true. I may be wrong. After all, I am but a layman, but where the action may be maintained by the Plaintiff Bartsch, the District of Columbia resident, against one of the parties Defendant, a Maryland resident, and the other parties are not indispensible, then the action would lie, even though these other parties were joined.

(Judge Dobie) You are 100 percent wrong. If the parties are necessary, then the jurisdiction avails itself — only when they are formal, or nominal, such as guardians ad litem, who are merely the arm on which an infant enters the Court. If they are necessary parties, as distinguished from the others, the requisite jurisdiction must be maintained. This has been held in at least 100 cases.

(Mr. Bartsch) Then I stand corrected, your Honor. I am sorry.

(Judge Dobie) That is all right. But if you have a case under a Federal statute, of course citizenship is immaterial for jurisdictional purposes.

(Mr. Bartsch) Section 1343 refers to, specifically, Title 8, Section 47 of the U. S. Code, and it also refers generally to the Civil Rights Acts, Title 8, Sections 41, 42, 43, which are still in effect. I would like to read the pertinent portion of Title 47 of Section 47 — No. Title 8. This is in Part II, and it is the terminal two-thirds portion, I would say.

"* * * If two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any

manner, the due course of justice in any State or territory, with intent to deny to any citizen the equal protection of the laws * * *".

That is one section. Then we have, in Part III:

"* * * If two or more persons in any State or territory conspire * * * for the purpose of depriving, either directly or indirectly, any person or classes of persons, of the equal protection of the laws * * *".

And then, skipping the portion, in there, which relates to electors:

"* * * In any case of conspiracy set forth in this section, if two or more persons engaged therein do, or cause to be done, any action in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States", (and I refer specifically to the Constitution, Article 14—) "the person so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation against any one or more of the conspirators."

Now, I believe that that is an adequate provision for Federal jurisdiction. It is alleged in the Complaint that the proceedings in the State Court were hindered and impeded, pursuant to a conspiracy. It is also alleged that we have been damaged, each and every one of us, and I believe that confers jurisdiction upon this Court.

(Judge Parker) We can't have Federal Court jurisdiction of all conspiracy cases brought where the object of the conspiracy was to obtain property. No where do I know of a case that contains that.

(Judge Dobie) What questions of law have you been denied; or what privileges and immunities granted to you by the Federal Constitution have been denied to you?

(Mr. Bartsch) I will answer that specifically, your Honor. I was not a party in the State Court proceedings relating to

this property, but the decree of the State Court expropriated me of my right, title and interest in that property. I was never heard. I was never notified. I was not a citizen of the State of Maryland. I was a non-resident, and when, in the Court of Appeals, after having for the first time seen the decree of the Circuit Court, which did not issue until after the trial proceedings were all over, I saw that the decree ran against me, I asked leave in the Court of Appeals in the State of Maryland to intervene, and was willing to accept the proceedings in the State Court — in the State Circuit Court — that was denied me.

(Judge Dobie) They would not let you intervene?

(Judge Parker) They would not?

(Mr. Bartsch) They would not. Now, Mr. Orem makes a point in his brief for appellees, that I have adequate remedy at law or adequate remedy in equity. I can go back to the State Court and ask that this conveyance or trusteeship — which we brand as spurious and which we are prepared to show is spurious, and which the Defendants do not deny is spurious, and which has been obtained by perjured testimony and false documents — he suggests that I go back to the State Court. I believe as a citizen of the United States, I have a right to have this thing tried under the Civil Rights Act under Federal jurisdiction. I have been denied my rights in the State Court. It has been contributed to and made possible to deny my rights because of the actions of these defendants. All we want — all I want, specifically, is my day in Court. All I want is to prove this whole proceeding was spurious; that it was obtained upon a document which was foisted upon the Court, which is untrue and which is a nullity.

My co-plaintiffs have a Deed — a solemn Deed to the property. That is probably the most solemn document that one may have. The property has been taken away from us under guise of a trusteeship and it has been done by impeding and obstructing justice. Perjury is an obstruction of justice. It has been so defined repeatedly. I have been

denied my opportunity to raise that question in previous proceedings and I am told now, I must go back to the State Court.

(Judge Dobie) You had your case before the Supreme Court of Maryland, and they would not allow you to intervene so you could be a party?

(Mr. Bartsch) They would not allow me to be heard, your Honor.

(Judge Dobie) I see.

(Mr. Bartsch) It was denied the day after the petition was filed.

(Judge Dobie) You asked leave to intervene?

(Mr. Bartsch) I asked leave to intervene. I was willing to accept the entire proceedings in the Circuit Court and I stated to the Court that this would put a finality to the proceedings which otherwise could not be had, but the offer was refused and intervention was denied.

(Judge Dobie) What was denied in the Supreme Court of Maryland?

(Mr. Bartsch) The petition for intervention. When the case was first brought, I was not a party defendant, and I did not know the decree would run against me.

(Judge Dobie) Do I understand you to say your Petition for Intervention was made in an appeal pending in the Supreme Court of Maryland?

(Mr. Bartsch) That is right. That was the first possibility of intervention. It was not until the decree was entered that I knew that the decree was against me. The suit was originally brought for fraud naming Louk and Blondell. They could not prove that as charged. It was eighteen months before the Court rendered a decision.

(Judge Dobie) What sort of a decision did the Supreme Court of Appeals give against you?

(Mr. Bartsch) It sustained the decree of the Circuit Court which runs against me.

(Judge Dobie) How?

(Mr. Bartsch) It runs against anyone — anyone associated with Mr. Louk and Mr. Blondell. Jane Lenore Louk and Elizabeth Blondell were never parties. It ran against them. Lightbown was never a party, although he was invited after the decree was entered, to claim a fee for participation in the thing. In fact, the original decree as submitted to the Court did not provide for that. That is off-the-record. I should not go into matters off-the-record. I should not. I would object to counsel for the Appellees doing that.

That, I think, concludes my argument with respect to the question of jurisdiction of the Federal Court.

(Judge Dobie) All right.

(Mr. Bartsch) The question of res judicata I would like to answer by saying this: Mr. Friedman was never a party to the State Court proceedings. Neither was I. Mr. Orem was not a party until the decree named him as Trustee. He was an attorney. Mr. Orem represented a man by the name of Turover. We don't know him; he never appeared; he never testified; he took no chance in bringing this litigation. Mr. Orem took the full responsibility for it by his certification — another member of the firm of Duckett, Gill and Anderson furnished a certificate to the State authorities that the property was not owned by Mr. Turover but owned by Mr. Friedman. We now know that to be true. Mr. Turover had no right, title, or interest in the property. He was not even interested. That is what we allege in our Complaint. We have asked leave to show it. We had no opportunity to. As I said, none of these parties, except Louk and Blondell, were parties to the proceeding in the State Court — in the State Circuit Court. I was not a party. Mr. Orem was not a party except through his trusteeship which appeared after the decree; and Mr. Lightbown was only a witness.

We are prepared to prove, may it please the Court, that perjury was committed by Lightbown; that this document which is the sole basis on which our solemn Deed has been set aside, was fictitious. What more can I say about it?

It was non-existent on April 4.

(Judge Parker) Who were the Grantees in the Deed?

(Mr. Bartsch) The grantees in the Deed were Charles Leapley and Victoria I. Leapley.

(Mr. Louk) I beg your pardon. They were Grantors.

(Mr. Bartsch) The grantees were Gordon Louk and Joseph J. Blondell. I was not named as a grantee.

(Judge Parker) Proceed. Am I correct in thinking that the decision of the Maryland Court was to set aside that Deed, or to hold it subject to prior contract?

(Mr. Bartsch) They tried first to set it aside on the ground of fraud in procurement. That failed. They then requested to be entered against the Defendants Louk and Blondell, a Trust holding them responsible to convey the property to Mr. Turover, who never appeared, by virtue of a one-dollar option which he was claimed to have had.

(Judge Parker) How are you united in it?

(Mr. Bartsch) I was the original purchaser of the property. Mr. Blondell and I.

(Judge Parker) You have no deed, have you?

(Mr. Bartsch) No. Mr. Blondell entered in the contract for himself and for me, and when things developed — I had a domestic situation such that I could not perform. Mr. Louk, an agent for the property, put the money up with the understanding that I should take over. The situation has changed now. It is somewhat changed. We all are equally participant in the property. Mr. Louk has financed most of this, and in return therefor, both Mr. Blondell and I have relinquished a part of our interest, so we each only own one third.

(Judge Dobie) Mr. Turover brought suit for specific performance, did he?

(Mr. Bartsch) Against the Appellees?

(Judge Dobie) Yes.

(Mr. Bartsch) Yes. A sort of a mesne specific performance against Louk and Blondell.

(Judge Parker) What sort of a performance?

(Mr. Bartsch) Mesne.

(Judge Parker) What?

(Mr. Bartsch) (Spells) M-e-s-n-e.

(Judge Dobie) The Court held that the option was not an option, did he?

(Mr. Bartsch) Yes, your Honor. They believed Mr. Orem. Mr. Orem did not represent Mr. Turover. He was representing Friedman, who is the one the law firm certified.

(Judge Dobie) The State Court of Maryland held it was a valid option; that Louk and Blondell had notice of this outstanding option, and that therefore it was decided to have the property conveyed to him.

(Mr. Bartsch) Yes, your Honor. We are prepared to prove that the option was not in existence. We could have no notice of it because it was not in existence. That is a rather odd conclusion to draw. If it did not exist, we could not have notice of it.

(Judge Dobie) Has all that been litigated?

(Mr. Bartsch) It has not been litigated. We did not know the fraud existed until three weeks before we brought this — until about eight weeks before we brought this last Civil Action 5154. It was, in fact, after we brought Civil Action 5008. Then, we did not know the willfulness of it. We set up substantially the same allegations in the Complaint but it lacked the statement "intentional and willful";

and I believe the original Complaint did not set up sufficient material to constitute a plea in conspiracy. But I think that the last Complaint did.

(Judge Parker) Do you want to say something here? You said all you want to say?

(Mr. Bartsch) I think so.

(Judge Parker) You are Mr. Louk?

(Mr. Louk) Yes, sir.

(Judge Parker) All right. What do you want to say?

(Mr. Louk) In furtherance of our statement of the case, if we were to file a reply brief, we would do it by answering the Appellee's reply brief, and I refer now to Page 1, the first sentence of his "Statement of the Case", which we believe should be a "misstatement" — stated as a "Misstatement of the case." "I. S. Turover brought suit * * *". He did no such thing. He never testified; he never came into Court. This suit was brought and maintained solely on the statement — the pure, unadulterated certification to the Court by Mr. Orem —

(Judge Parker) It was brought in the name of Turover?

(Mr. Louk) Yes, sir; and we now know that Mr. Turover did none of the things that Mr. Turover was alleged to have done. All of this would appear in the testimony which we would take from the Appellees. We know that he would have to — in certain places here I am going to show you — under penalty of perjury, he will have to say exactly what I am going to say.

On top of Page 2, "The option was given to him * * *".

(Judge Parker) Top of what?

(Mr. Louk) Mr. Orem's brief. I beg your pardon, of the Appellee's Brief.

(Judge Dobie) The line, "The option was given to him by an old couple * * *?"

(Mr. Louk) Yes.

It was no such thing. It was never given to Turover. It was negotiated or fabricated by Lightbown, the other Appellee.

(Judge Parker) Go on.

(Mr. Louk) Then, the next statement down there, gentlemen. Excuse me. Your Honors. "Louk and Blondell were represented in the lower State Court by competent counsel * * *".

There has been so much made of us representing ourselves, and of our competent counsel. I think that Mr. Orem will recall that in the Circuit Court for Prince Georges County our Counsel had this, and only this, to say, in summing up our statement. At the request of the Judge, he said this:

"Mr. Lillard, don't you have something to say?" He said "Well, I might say this. This case remainds me of an old Indian who attended a political meeting, and somebody asked him what he thought about it, and he said, 'Well, it's like a storm in the desert. A lot of wind, a lot of sand — and no rain!'" We paid him a fee for that, and he withdrew from the case and we took over; and we understand we have a right to do that.

Then he says that we — it is very often referred to — we should secure counsel. I tried that, and I had the statement only a few days ago from a man whom I asked to represent us. He said, "Mr. Louk, you understand that the Appellees of this case are some of the most prominent men in the Bar here, and some of the most influential, that you are up against. It would be political suicide for me to take that case. I have to earn a living."

(Judge Parker) This does not go to the facts of the case. You are appearing here for yourselves. Tell us what your case is. Talk about something else.

(Mr. Louk) We challenge down here, on page 2: "Appellee Friedman was not a party to the proceeding in the State Court and had nothing whatever to do with it." It shows the State Court conceding he was the actual owner, claiming to be the actual owner of this property. "He was mentioned by witnesses in that proceeding as having an interest in an adjoining tract of land in which Turover also has an interest." We would also like to know where that appears in the record.

I heard you say, one of you Honorable Judges say, a little while ago, what you — we brought this record up, incidentally — 5008 and this. We challenge the antecedent of that in this record, and we say that there was no witnesses in that State Court proceeding that testified that Lightbown or that Friedman had interest in the joint tract of land. That statement we brand now as completely untrue and false and made here for the purpose of deceiving, misleading, and misrepresenting to this Court.

Now, at the top of Page 3 it says that, however, Appellee Friedman was never served in the former case, and that is true. That is, in 5008. We think that is important. The circumstances surrounding it will be indicated when you read the record which we have brought up in 5008.

The last sentence in the first paragraph on Page 3, "Appellants filed at least thirteen different captioned papers in No. 5008 in an effort to harass appellees." We challenge that statement as being untrue and we would like to see — have Mr. Orem point out where it is true; and to identify those thirteen papers to the Court; and the next sentence, "Shortly after the order of June 26, 1950, appellee Orem, acting as Trustee, gave bond as required by the decree of the State Court; and the next sentence, "Shortly after the order of June 26, 1950, appellee Orem, acting as Trustee, gave bond as required by the decree of the State Court and conveyed the property to I. S. Turover."

This is testimony given here for the first time, except on the 14th of March, he referred to it and said that he believed that we did not know about it. Do you recall that?

(Judge Dobie) Has any conveyance been made?

(Mr. Louk) Mr. Orem has represented here, for the first time, that he has done that. Now, there is a little item like getting paid for it. He evidentally — if he has conveyed it in accordance with the terms and conditions of that State Court mandate, what happened to our money that was in it? He not only wants to take the property itself, I presume he intends to take the money with which we bought it. That we would like to develop further. We would like to have a right to question him by deposition as to all this. This which I am saying to you, is not — does not appear in the record of 5008 or 5154; and I understand that is what we are up here on. It is the record. Now, I will turn over to page 7, next to the last paragraph: "Appellants do not even allege what actions on the part of appellees were fraudulent or what testimony by some of the appellees was false."

He knows, and I know, that that document was not in existence, as he alleges, five years ago. Today is supposed to be the birthday of that illegitimate brain-child. We allege that he says it was signed on that day. It was not signed on that day at all. It did not exist. Under penalty of perjury, if we are permitted to examine him, and the case is remanded, he will tell you what I am telling you.

Now, at the top of page 8 it says here, the last sentence:

"The torrent of charges and rhetorical denunciations are not allegations of fact."

I don't know how you put all your facts in a Complaint, but anyhow:

"To characterize a document as fraudulent is not alone sufficient, especially when the validity and genuiness of the document had admittedly been decided by another court."

Who admitted it? I certainly did not admit the genuiness and validity of the document. That statement made here in his brief is the most amazing —

(Judge Dobie) He did not say you admitted it.

"* * * has admittedly been decided by another court of record."

(Mr. Louk) I say that we have attacked its validity and its genuiness and that its validity and genuiness was a thing that was not before the other Court. We are now alleging — now — that it was false, illegitimate, and not genuine. They could not have decided its legitimacy without having in there, and for their consideration, what information we now have, which we have discovered; and we don't admit — if he is referring to us — we say that we don't admit its genuiness and we don't believe anybody else does.

Now, at the next paragraph; in paragraph 10 of the Complaint:

"* * * appellants allege that appellee Friedman misrepresented that he was the owner of the property involved in this proceeding, and that such misrepresentation was made in a written application by Friedman to procure industrial zoning of the property."

That is where Friedman, on the certificate of the senior partner of their law firm — either he or Mr. Duckett — misrepresented that Friedman was the owner. We said that then, and we say it now:

"It is not shown how we suffered any damage."

They placed a cloud on the title of our ground with that proceeding. Now, he says:

"This Court can take judicial notice of Sections 986 to 993 of the Code of Public Local Laws of Prince George's County, Maryland (Flack's 1943 Edition) wherein the Board of County Commissioners of Prince George's County sitting as a District Counsel are given statutory power to amend the zoning maps (Section 988) and thus to rezone property for industrial use."

We don't believe this Court can take such judicial notice. It must be printed.

With this background of falsification and misrepresentation, the appellees ask that this Court "protect" them from us, and by what authority this Court could or should do that, I don't know. I refer to his conclusion and prayer to the Court. It says, "Will you please protect us?" I say to you, if we ever get him on the witness stand, he, and his star witness, will need this protection.

We would like to ask that this Court protect our rights now —not just us, but our rights. This thing is bigger than just me, and I would not pursue it — I would not have the audacity to keep on trying to do this — but a person just hates to have a fellow take his ground. If that is the way the law in this country is to be administered, a man can find a piece of paper on the street, and say, "It's okey by me. It has a man's name on it." This fellow, in stealing this property has acquired it in an illegitimate manner. He can go into Court without his principal appearing there, just on his own certification, and he can say, "You see this? This is not sworn to. It is not under seal." Look at it. It is the most amazing thing you ever saw! On the basis of that document, which we now know to be completely spurious, and upon evidence which we are prepared to show, they took the property away, they do that all by conspiracy. If that isn't a violation of our civil rights, I don't know what would be. That is the basis of our case.

(Mr. Bartsch) I have nothing to add, your Honor.

(Mr. Orem) If your Honor please —

(Judge Parker) There are an awful lot of questions I want to ask you. This case, I believe, was dismissed with prejudice?

(Mr. Orem) Yes, sir.

(Judge Parker) It is perfectly clear there is no jurisdiction here, no jurisdiction on the ground of the Civil Rights Act. That being true, the Court had no jurisdiction in the case. How can you dismiss it "with prejudice". Why not for lack of jurisdiction?

(Mr. Orem) Why didn't the Court below simply dismiss it for lack of jurisdiction?

(Judge Parker) That is right. He had it "with prejudice". How can you dismiss for lack of jurisdiction "with prejudice."

(Judge Dobie) In other words, that is Jurisdiction. This Court can properly enter a dismissal because of lack of jurisdiction in the lower Court.

(Mr. Orem) It may very well be true. I am sure Judge Coleman below signed the Order as he did, with the wording he did, because he felt that these people had every day in Court that they were entitled to, this being the third proceeding that they have started; and I requested him — and perhaps I misconceived the law when I asked it — but I requested him to rule on the grounds of res adjudicata, because I thought res adjudicata was alleged sufficiently in the Complaint, so that he could rule that it appeared from the face of the Complaint that it was res adjudicata. I am not certain he did so rule, but he did sign the Order that was drawn that way. He knew, very definitely he knew he was signing with the words "with prejudice". He instructed me to draw the Order that way, as is apparent from the argument in discourse of counsel which took place, and which is printed in full in the appendix of Appellants' brief.

Now, I —

(Judge Parker) The Judge did another thing. He ruled it res adjudicata, didn't he?

(Mr. Orem) What?

(Judge Parker) Was the judgment appealed from res adjudicata?

(Mr. Orem) He simply recited it.

(Judge Parker) Also, "* * * it appears from the Complaint and subject matter, it was adjudicata in the Circuit Court. Therefor, it was res adjudicata."

(Mr. Orem) Two things are recited in that order. One is the matter of lack of jurisdiction. The other is the matter of res adjudicata. I don't think that is material here. I think, in fact, the Court below erred in so reciting. It simply makes that a ground, perhaps — if you think that —.

(Judge Parker) Your adversaries don't understand the dual kind of jurisdictional citizenship — dual sovereignty in this country. There are certain cases over which the State Courts have jurisdiction; certain cases in which the Federal Courts have jurisdiction. The Federal Courts are given jurisdiction of cases involving diversity of citizenship. For the Federal Courts to have jurisdiction, there must be complete diversity, and there is no diversity if one of the plaintiffs is a citizen of the same State as one of the defendant. You can't get diversity of citizenship there.

Another ground of Federal jurisdiction is a case arising under the Civil Rights Acts, or under the laws of the Constitution of the United States. Those cases have been decided time and again by the Supreme Court. That being true, the Court below had no jurisdiction in this case. This Court has no jurisdiction of it, except upon the appeal, to say the Court below had no jurisdiction, which I am asking you. Why shouldn't we enter an order affirming the dismissal of the case and saying that nothing on the merits of that was adjudicated?

(Mr. Orem) I can't give you any reason why you should not.

(Judge Dobie) Isn't it clear. This Court was without jurisdiction. If it was without jurisdiction, it can't adjudicate res adjudicata. They can't adjudicate anything, can they? In other words, jurisdiction of this Court is without power except to dismiss it.

(Mr. Orem) That is the law, your Honor.

I think it is a very unjust law that a litigant, even assuming some of the things he said are true — which they

of course are not — even assuming that — it would be a very unjust law which would permit a litigant to be dragged into Court three times, twice on an identical complaint.

(Judge Dobie) A man could sue me tomorrow. He could charge I ran over him in an automobile. His case would come up and I would win it. That is the end of it. Three days later, he can sue me in Richmond, if he catches me here. I can't stop him just because I put in res adjudicata. He can sue me again. He can keep suing me. Each time, he has to pay the costs unless somebody issues an injunction against him. Then, of course, if he did not obey it, he would be in contempt of Court.

(Mr. Orem) That is the law as I see it. I have no argument with you. However, I hoped that Judge Coleman would rule — and he encouraged me, certainly, from what he said, as you will recall from reading the discourse of counsel reproduced in the appendix — he indicated he was going to put a stop to it, and rule it was with prejudice, and he did so rule as you know. It is pretty difficult for me to sit down and take the things he said about me —

(Judge Parker) Don't go into that now. You don't need to argue this. The Court has no jurisdiction. That is perfectly clear.

ORDER

By Judge Parker:

All right, gentlemen, we will enter an order to the effect that the Court below was without jurisdiction and that there is no jurisdiction on the ground either of diversity of citizenship, or under the Civil Rights Act. An Order to that effect will be made.

(Mr. Orem) I don't construe that as meaning I should prepare an Order for the Court?

(Judge Parker) No. No. No. You go on.

(Thereupon, the hearing was terminated at 12:40 o'clock.)

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1951.

No. 198.

GORDON LOUK, JOSEPH J. BLONDELL, JANE L. LOUK and ELIZABETH B. BLONDELL, *Petitioners,*

v.

HARRY D. FRIEDMAN, EDWARD N. LIGHTBOWN and NICHOLAS OREM, JR., *Respondents.*

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

BRIEF OF RESPONDENT NICHOLAS OREM, JR.

STATEMENT OF THE CASE.

I. S. Turover brought suit in the Circuit Court for Prince George's County, Maryland, for specific enforcement of an option to purchase about 3½ acres of unimproved land located near Kenilworth Avenue, a neighborhood with industrial possibilities in that County, near Washington,

D. C. The option was given to him by an old couple named Leapley, and was negotiated by a real estate broker named Lightbown who is one of the respondents in the present case. Petitioners Louk and Blondell were joined as defendants in that proceeding because the Leapleys, subsequent to the option given by them to Turover, had sold and conveyed the property for the same price to Louk and Blondell. The proceedings in the state court then became a contest between rival purchasers. Louk and Blondell were represented in the lower state court by competent counsel, but since then have been acting in proper person.

A decree was entered in favor of Turover on the ground that Louk and Blondell had notice of his outstanding option at the time they bought the property from the Leapleys. The decree required Louk and Blondell to convey the property to Turover upon reimbursement of the purchase price, and appointed a trustee to convey the property to Turover in the event Louk and Blondell failed or refused to do so within a specified time. The attorney for Turover was respondent Nicholas Orem, Jr., who was also named in the decree as trustee.

Respondent Friedman was not a party to the proceeding in the state court and had nothing whatever to do with it. He was mentioned by witnesses in that proceeding as having an interest in an adjoining tract of land in which Turover also has an interest.

Petitioners Louk and Blondell appealed the decree in proper person to the Court of Appeals of Maryland. The decree of the lower court was affirmed on appeal (*Blondell* v. *Turover*, 72 A. 2d 697).

Demand was then made upon Louk and Blondell to convey the property to Turover, but before the time limit specified in the demand had expired, they filed Civil Action No. 5008 in the United States District Court for the District of Maryland, which sought to enjoin Nicholas Orem, Jr., from acting as trustee and conveying the property to Turover, and which prayed in the alternative for damages.

Defendants (respondents) filed a motion to dismiss. Petitioners failed to appear at the hearing on this motion, but advised the District Court by telegraph that they were on that date petitioning the Supreme Court of the United States for a writ of prohibition and/or for a writ of mandamus. Such a petition was actually filed in the Supreme Court, No. 56 Miscellaneous, October Term, 1950, but was later withdrawn. An order was signed by the District Court on June 26, 1950 dismissing the complaint in No. 5008 on jurisdictional grounds, from which order no appeal was taken. Petitioners filed at least thirteen different captioned papers in No. 5008 in an effort to harass respondents.

Shortly after the order of June 26, 1950, respondent Orem, acting as trustee, gave bond as required by the decree of the state court and conveyed the property to I. S. Turover.

Several months later, petitioners filed the complaint in the present case, No. 5154, and respondents moved to dismiss. The motion was sustained by the District Court after full argument on October 20, 1950. The argument and discussion on that date is set forth at length in the printed "Transcript of Record" filed by petitioners in this Court, commencing at page 13.

Petitioners appealed this dismissal to the Court of Appeals for the Fourth Circuit. The argument before that Court is set forth in Petitioners' brief filed in this Court, commencing at page 19. The Court of Appeals affirmed the decree of the District Court on the ground that the Federal Courts lacked jurisdiction. (Transcript, page 73).

The complaint in the present case, No. 5154, was identical with the complaint in the previous case, No. 5008, except for certain minor grammatical corrections and changes in sentence structure which have no bearing on its substance. The parties were identical in both cases.

QUESTION PRESENTED.

The sole question presented is: **Did the District Court have jurisdiction?** This is discussed under the headings:

1. THERE IS NO DIVERSITY OF CITIZENSHIP.
2. THERE IS NO FEDERAL QUESTION.

ARGUMENT

1. There Is No Diversity of Citizenship.

Paragraph 1 of the complaint alleges that one of the Plaintiffs and one of the defendants are citizens of the District of Columbia and that the other four plaintiffs and the other two defendants are all citizens of the State of Maryland.

To sustain jurisdiction of a federal court on the ground of "diversity of citizenship" there must exist an actual substantial controversy between citizens of different states, all of whom on one side of the controversy are citizens of different states from all parties on the other side.

Judicial Code, Sec. 24 (1); 28 U.S.C.A. Sec. 41 (1)
Treinies v. *Sunshine Mining Co.*, (1939) 308 U.S. 66, 84 L. Ed. 85
Indianapolis v. *Chase National Bank*, (1941) 314 U. S. 63, 86 L. Ed. 47.
Ober v. *Gallagher*, (1876) 93 U.S. 199, 23 L. Ed. 829.
Florida R. Co. v. *Bell*, (1900) 176 U.S. 321, 44 L. Ed. 486.

"And where the jurisdiction of the circuit court depends upon diversity of citizenship, it fails, unless the necessary citizenship affirmatively appears on the record." *Watson* v. *Bonfils*, (C.C.A. Kans.) 116 Fed. 157.

2. There Is No Federal Question.

Petitioners have not shown where any Federal question is involved which might give jurisdiction in this case to the United States District Court, nor have they shown timely action to take advantage of any such Federal question.

Paragraphs 5 and 6 of the complaint show that the

decree of the Circuit Court for Prince George's County, Maryland, was affirmed by decree of the Court of Appeals of Maryland.

Petitioners make numerous vague general statements that a conspiracy existed, and seem to indicate that therefore jurisdiction obtains under Section 1343 of Title 28 of the U. S. Code. This section gives original jurisdiction to District Courts of any civil action to recover damages for a conspiracy under Section 47 of Title 8 of the U. S. Code. This section is entitled "Conspiracy to interfere with civil rights", and relates to denial of the equal protection of the laws. It has no bearing whatever upon a controversy relating to property, especially where no facts are alleged to indicate a denial of that equal protection guaranteed by the Constitution, or to bring this case within the specific provisions of Section 47, Title 8.

Petitioners have not shown any facts which make this a case arising under the Constitution, laws or treaties of the United States.

CONCLUSION.

Petitioners have taken undue advantage of their right to handle their own case without an attorney, regardless of their ability to do so. They have also taken unfair advantage of their rights to docket suit, file various papers therein, and appeal to higher courts, regardless of the merits of their case.

This respondent acted as attorney for himself and the other respondents in the District Court and in the U. S. Court of Appeals, but inasmuch as he is not admitted to practice before this Supreme Court, he files this brief only for himself, and does so in proper person. This suit is in reality directed against this respondent in his capacity as trustee appointed by the Circuit Court for Prince George's County, Maryland.

Respectfully submitted,

NICHOLAS OREM, JR.
Respondent in Proper Person.